

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

And

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 20928 of 2004

Between:

M/s. Sri Krishnadevaraya Constructions, Allwyn Colony,

Penukonda - 515 110, Anantapur District, Rep. by its Managing Partner, Mr. P.
Mahindra.

..... PETITIONER

AND

- 1 The Commercial Tax Officer,(FAC), Hindupur.
- 2 The Appellate Deputy Commissioner (CT), Kurnool division, Kurnool.
- 3 The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally,
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or order or direction quashing the order of the 3rd Respondent in CCT's Ref.No. LIII(2) 1682/04 dated 21-9-2004 refusing to grant stay of collection of balance disputed tax of Rs.6,70,300/- for the

assessment year 1998-99 as arbitrary and unjustified and consequently restrain the 1st Respondent from taking any coercive steps for recovery of disputed tax pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: MR.S.DWARAKANATH

Counsel for the Respondent Nos.1 to 3: GP FOR COMMERCIAL TAXES

The Court, at the stage of admission, made the following:

ORAL ORDER: (Per: The Hon'ble Mr. Justice Bilal Nazki)

Heard learned Counsel for the parties. With their consent, the Writ Petition is disposed of at this stage.

The controversy is that pending appeal, application for stay was dismissed by the competent authority. We have gone through the record and heard learned Counsel for the parties. We feel that the interest of justice would have been met if stay was granted pending appeal, subject to deposit of half of the liability. Therefore, we set aside the order of the authority and direct that half of the disputed tax liability shall be paid by the petitioner within a period of eight weeks. Any amount already paid shall be deducted from the amount to be deposited. For eight weeks, there shall be an unconditional stay and the stay shall continue till disposal of the appeal, provided the amount is deposited within eight weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal.

Writ Petition is disposed of accordingly. No costs.

BILAL NAZKI, J

S. ANANDA REDDY, J

Dt. 16-11-2004

Pvks/*

Nb: Furnish operative portion by wire at party's cost.

B/o pvks/*

To

- 1 The Commercial Tax Officer,(FAC), Hindupur.
- 2 The Appellate Deputy Commissioner (CT), Kurnool division, Kurnool.
- 3 The Additional Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad.

4.2CCs to the Government Pleader for Commercial Taxes, A.P. High Court Buildings, Hyderabad (OUT).

5.2CD copies

*Form-NIC-OGS/WP{**SPJS**}*